

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

CAROLYN SCHAUPP,

Defendant.

No. 1:23-cv-00755-ADA-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL

(ECF No. 5)

Defendant Carolyn Schaupp (“Defendant”) proceeding pro se, removed this criminal action from the Stanislaus County Superior Court on May 15, 2023. (ECF No. 1.) Defendant did not submit a filing fee with her notice of removal but instead filed an application to proceed *in forma pauperis*. (ECF No. 2.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

The assigned Magistrate Judge entered findings and recommendations on June 9, 2023, recommending Defendant’s application to proceed *in forma pauperis* be denied as moot, and that the action be summarily dismissed and remanded to the Stanislaus County Superior Court for lack of subject matter jurisdiction. (ECF No. 5.) The findings and recommendations advised Defendant that she could file objections within fourteen days after service. (*Id.* at 12.)

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1 Rather than file objections, Plaintiff kept filing motions and requests to the Court. For
2 example, on June 12, 2023, Defendant filed another brief, entitled “Motion Re: Removing
3 Defendant’s Emergency Motion to Quash and Traverse Arrest Warrant for Lack of Jurisdiction in
4 the State Court Motion to Dismiss and Emergency Pick-Up Order for Minor P.I.” (ECF No. 6 (all
5 caps removed).) On June 14, 2023, Defendant filed a notice of interlocutory appeal regarding the
6 June 9, 2023, findings and recommendations. (ECF No. 7.) On August 8, 2023, the Ninth Circuit
7 Court of Appeals dismissed the appeal for lack of jurisdiction. (*See* ECF Nos. 8, 9, 12, 15.)

8 Subsequently, on August 17, 2023, Defendant filed a request for entry of default which was
9 denied by the Magistrate Judge on August 18, 2023. (*See* ECF Nos. 13, 14.) On August 25, 2023,
10 Defendant filed a motion for temporary restraining order and a motion to “QUASH Void Warrant
11 Issues August 18, 2023.” (ECF Nos. 16, 17.)

12 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
13 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
14 Court finds the findings and recommendations to be supported by the record and proper analysis.

15 As explained by the Magistrate Judge, Defendant’s notice of removal fails to state any
16 cognizable basis for removal of a state criminal prosecution. (ECF No. 5 at 11.) Thus, the case
17 should be summarily dismissed, and this action should be remanded to the Superior Court of
18 Stanislaus County. (*Id.*)

19 Accordingly,

- 20 1. The Findings and Recommendations issued on June 9, 2023, (ECF No. 5), are
21 ADOPTED IN FULL.
- 22 2. This action is SUMMARILY DISMISSED, without prejudice, and REMANDED
23 to the Superior Court for the County of Stanislaus, Case No. CR-20-008761;
- 24 3. Defendant’s motion to proceed *in forma pauperis*, (ECF No. 2), is DENIED as moot;

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- 1 4. Defendant's motion to consolidate and reopen cases, (ECF No. 10); motion for
2 temporary restraining order, (ECF No. 16); and motion to quash, (ECF No. 17), are
3 DENIED as moot; and
4 5. The Clerk of Court is directed to CLOSE this case.

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7 IT IS SO ORDERED.

8 Dated: August 30, 2023


UNITED STATES DISTRICT JUDGE